

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

In re:

Chapter 7

JAMES FITZGERALD BOWYER,

Case No. 19-13113(MDC)

Debtor.

THE KIM LAW FIRM LLC and
RICHARD KIM,

Adv. No. 19-00200(MDC)

Plaintiffs,

v.

JAMES FITZGERALD BOWYER,

Defendant.

**DECLARATION OF RICHARD KIM, ESQ., IN SUPPORT OF
PLAINTIFFS' RESPONSE TO DEFENDANT/DEBTOR'S MOTION TO
SET ASIDE THE ENTRY OF DEFAULT**

Richard Kim, Esquire hereby declares under penalty of perjury pursuant to 28 U.S.C. § 1746 and unsworn falsification to authorities that the information contained herein is true and correct to the best of my knowledge and there are no intentional misstatements, hereby submits this Declaration in support of the Plaintiffs, The Kim Law Firm LLC and Richard Kim's ("Kim") Response to Defendant/Debtor's Motion to Set Aside the Entry of Default (the "Response").

1. I have personal knowledge of the facts set forth in this Declaration and if called to testify I could and would competently testify thereto.

2. I am the individual Plaintiff in this action and am the member of Plaintiff The Kim Law Firm LLC.

3. I am an attorney licensed by the Commonwealth of Pennsylvania and State of New Jersey having continuously practiced law in the state and federal courts of Pennsylvania and New Jersey since approximately 2006.

Boyer's Conduct in Bankruptcy Proceeding

4. In the underlying Chapter 7 Bankruptcy action, Bowyer and/or his counsel continuously delayed the proceeding, including:

- a. Bowyer filed the Petition on May 13, 2019, without including a matrix listing the creditors. ECF Nos. 1-3.
- b. On May 20, 2019, Bowyer filed a Motion to Extend Time to File Creditors Matrix. ECF No. No. 8.
- c. On May 24, 2019, Bowyer filed a Motion to Extend Time to File Required Documents. ECF No. 10.
- d. On June 12, 2019, Bowyer filed a Second Motion to Extend time to File Required Documents. ECF No. 14.
- e. A meeting of creditors was scheduled for August 14, 2019, but was not held because Bowyer failed to appear.
- f. A meeting of creditors was held on September 12, 2019, which was not concluded because the Trustee requested additional documents to be filed by Debtor.

Bowyer's Conduct in the Philadelphia Court of Common Pleas

5. Richard Kim and The Kim Law Firm LLC were the plaintiffs in the action commenced against Bowyer in the Philadelphia Court of Common Pleas, May Term 2018, Case No. 03106 (the "Philadelphia Action").

6. In the Philadelphia Action, Plaintiffs had to serve notices pursuant to Pa.R.Civ.P. 237.1 (“10 day notice”) upon Bowyer and/or his counsel on four occasions, due to their failure to timely file a responsive pleading to the Complaint, including as follows:

- a. Plaintiffs served a 10-day notice on October 10, 2018 upon Bowyer only, as a result of his failure to file a responsive pleading to the original complaint.
Bowyer then filed preliminary objections to the original complaint.
- b. Bowyer’s counsel, Thomas Kenny, Esq. entered his appearance on October 18, 2018.
- c. Plaintiffs filed and served an Amended Complaint on Bowyer and served a 10-day notice on Bowyer and his counsel on December 7, 2018. Bowyer then filed preliminary objections to the Amended Complaint.
- d. Plaintiffs filed and served a Second Amended Complaint on Bowyer and served a 10-day notice on Bowyer and his counsel on January 1, 2019.
Bowyer then filed preliminary objections to the Second Amended Complaint.
- e. On February 28, 2019, the Court overruled Bowyer’s preliminary objections to the Second Amended Complaint. Bowyer failed to file an Answer to the Second Amended Complaint within 20 days so on March 21, 2019, Plaintiffs served a 10-day notice on Bowyer and his counsel.

7. Bowyer appeared for approximately 2-hours of deposition in the Philadelphia Action on March 8, 2018, and during that deposition, refused to answer questions relating to the Plaintiffs discovery requests and read a prepared answer to each question that he was asserting his Fifth Amendment Right against self-incrimination . *See* ECF 3, Exhibit “2.”

8. Bowyer filed an Answer to the Second Amended Complaint in the Philadelphia Action, wherein nearly every paragraph stated “Denied. The allegations set forth in this paragraph constitute conclusions of law to which no response is required. To the extent a response is deemed required, Defendant invokes the privilege against self-incrimination as afforded to him under the Fifth Amendment of the United States Constitution and Article 9, § 1 of the Pennsylvania Constitution.”

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Dated: August 16, 2021

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By: 
Richard Kim